

2003 DRAFTING REQUEST

Bill

Received: 07/21/2003

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: Sara Seaquist

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact: Gary Radloff 6-3262
Mark Mitchell 261-8316

Addl. Drafters:

Subject: Children - out-of-home placement

Extra Copies:

Submit via email: YES

Requester's email: Sen.Roessler@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Subsidized guardianships

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/08/2003	wjackson 09/30/2003		_____			S&L
/1			rschluet 09/30/2003	_____	lemery 09/30/2003		S&L

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/2	gmalaise 02/18/2004	wjackson 02/20/2004	jfrantze 02/20/2004	_____ _____ _____	Inorthro 02/20/2004 lemery 02/23/2004	lemery 02/24/2004	

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At
Intro.

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Wlj 2/20 rschluet 09/30/2003 lemery 09/30/2003
 [Signature] 2/20

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1?	gmalaise	1 Wlj 9/30					
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FE Sent For:

<END>

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attn: Gordon
from: Sam Lequist, Senator Roesler's
office

SUBSIDIZED GUARDIANSHIP

DRAFT LEGISLATION

Section 20.435(7)(b) is amended to read:

(7)(b) *Community aids.* The amounts in the schedule for human services under s. 46.40, to fund services provided by resource centers under s. 46.283(5), for services under the family care benefit under s. 46.284(5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06(4), for shelter care under ss. 48.58 and 938.22, and for foster care and treatment foster care, and subsidized guardianship care under s-ss. 46.261 and 49.19(10). Social services disbursements under s. 46.03(20)(b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03(20)(b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001(3)(a) and 20.002(1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under s. 46.495(2)(b) and 51.423(15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495(2)(b) and 51.423(15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

Section 20.435(7)(kw) is amended to read:

(7)(kw) *Interagency community aids.* The amounts in the schedule for human services under s. 46.40, for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06(4), for shelter care under ss. 48.58 and 938.22, for foster care and treatment foster care, and subsidized guardianship care under s-ss. 46.261 and 49.19(10), and for mental health services under s. 51.423(1). All moneys transferred from the appropriation account under s. 20.445(3)(md) for those purposes shall be credited to this appropriation account.

Section 46.10(14)(a) is amended to read:

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46.23, by the department, or by a federally recognized American Indian tribal governing body in this state under an agreement with a county department under s. 46.215, 46.22, or 46.23.

✓ **Section 46.261(2)(a)1. is amended to read:**

(2)(a)1. A nonrelative who cares for the dependent child in a foster home or treatment foster home having a license under s. 48.62, in a foster home or treatment foster home located within the boundaries of a federally recognized American Indian reservation in this state and licensed by the tribal governing body of the reservation or in a group home licensed under s. 48.625, a subsidized guardian under s. 48.62(5) who cares for the dependent child, or a minor custodial parent who cares for the dependent child, regardless of the cause or prospective period of dependency. The state shall reimburse counties pursuant to the procedure under s. 46.495(2) and the percentage rate of participation set forth in s. 46.495(1)(d) for aid granted under this section except that if the child does not have legal settlement in the granting county, state reimbursement shall be at 100%. The county department under s. 46.215 or 46.22 or the department under s. 48.48(17) shall determine the legal settlement of the child. A child under one year of age shall be eligible for aid under this subsection irrespective of any other residence requirement for eligibility within this section.

✓ **Section 46.261(2)(a)3. is amended to read:**

(2)(a)3. A county or, in a county having a population of 500,000 or more, the department, when the child is placed in a licensed foster home, treatment foster home, group home, or ~~child-caring institution~~ residential care center for children and youth or in a subsidized guardianship home by a child welfare agency or by a federally recognized American Indian tribal governing body in this state or by its designee, if the child is in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48(17) or if the child was removed from the home of a relative, as defined under s. 48.02(15), as a result of a judicial determination that continuance in the home of the relative would be contrary to the child's welfare for any reason and the placement is made pursuant to an agreement with the county department or the department.

✓ **Section 46.261(2)(a)4. is amended to read:**

(2)(a)4. A licensed foster home, treatment foster home, group home, or ~~child-caring institution~~ residential care center for children and youth or a subsidized guardianship home when the child is in the

the decrease in the amount of state and federal funds equals the difference between the required and the actual amount of county matching funds.

✓ Section 46.51(4) is amended to read:

(4) A county may use the funds distributed under this section to fund additional foster parents and treatment foster parents, and subsidized guardians to care for abused and neglected children and to fund additional staff positions to provide services related to child abuse and neglect and to unborn child abuse.

✓ Section 48.33(4)(intro.) is amended to read:

(4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement of an adult expectant mother outside of her home shall be in writing. A report recommending placement of a child in a foster home, treatment foster home, group home, or residential care center for children and youth, or in the home of the child's guardian under s. 48.977(2) shall be in writing and shall include all of the following:

✓ Section 48.345(3)(c) is amended to read:

(3)(c) A foster home or treatment foster home licensed under s. 48.62 or, a group home licensed under s. 48.625, or in the home of the child's guardian under s. 48.977(2).

✓ Section 48.425(1)(g) is amended to read:

(1)(g) If an agency designated under s. 48.427(3m)(a)1. to 4. determines that it is unlikely that the child will be adopted, or if adoption would not be in the best interests of the child, the report shall include a plan for placing the child in a permanent family setting. The plan shall include a recommendation as to the agency to be named guardian of the child or a recommendation that the person appointed as the guardian of the child under s. 48.977(2) continue to be the guardian of the child or that a guardian be appointed for the child under s. 48.977(2).

✓ Section 48.427(3m)(intro.) is amended to read:

(3m)(intro.) If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has not been appointed under s. 48.977, the court shall ~~either~~ do one of the following:

✓ Section 48.427(3m)(c) is created to read:

not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001(7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the state superintendent of public instruction.

Section 48.57(3)(a)5. is created to read: *if waiver granted for county other than Milwaukee*

5. Is living in the home of a subsidized guardian under s. 48.62(5) if the county is included in the waiver described in s. 48.62(5)(b).

Section 48.57(3m)(cm) is amended to read:

(3m)(cm) A kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3n) or s. 48.62(4) or (5) for that child.

Section 48.57(3n)(am)1. is amended to read:

(3n)(am)1. The long-term kinship care relative applies to the county department or department for payments under this subsection and provides proof that he or she has been appointed as the guardian of the child under s. 48.977(2) and states that he or she was not licensed as the child's foster parent or treatment foster parent before the guardianship appointment.

Section 48.57(3n)(cm) is amended to read:

(3n)(cm) A long-term kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3m) or s. 48.62(4) or (5) for that child.

Section 48.61(3) is amended to read:

(3) To provide appropriate care and training for children in its legal or physical custody and, if licensed to do so, to place children in licensed foster homes, licensed treatment foster homes, and licensed group homes and in the homes of the children's guardians under s. 48.977(2).

Section 48.615(1)(b) is amended to read:

(1)(b) Before the department may issue a license under s. 48.60(1) to a child welfare agency that places children in licensed foster homes, licensed treatment foster homes, and licensed group homes and in

✓ Section 48.977(title) is amended to read:

48.977(title) Appointment of ~~relatives as~~ guardians for certain children in need of protection or services.

✓ Section 48.977(1) is repealed.

✓ Section 48.977(2) is amended to read:

(2) TYPE OF GUARDIANSHIP. (intro.) This section may be used for the appointment of a ~~relative of a child as a~~ guardian of the person for ~~the a~~ child if the court finds all of the following:

✓ Section 48.977(2)(a) is amended to read:

No "child" is defined term in ch. 48

(a) That the child has been adjudged to be in need of protection or services under s. 48.13(1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or the juvenile has been adjudged to be in need of protection or services under s. 938.13(4) and been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.435, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 for a cumulative total period of one year or longer or that the child or juvenile has been so adjudged and placement of the child or juvenile in the home of a guardian under this section has been recommended under s. 48.33(1) or 938.33(1) or requested under s. 48.357(1) or (2m) or 938.357(1) or (2m).

✓ Section 48.977(2)(b) is amended to read:

(b) That the person nominated as the guardian of the child or juvenile is a ~~relative of the child~~ person with whom the child or juvenile has been placed or in whose home placement of the child or juvenile is recommended or requested under par. (a) and that it is likely that the child or juvenile will continue to be placed with that relative person for an extended period of time or until the child or juvenile attains the age of 18 years.

✓ Section 48.977(2)(c) is amended to read:

(2)(c) That, if appointed, it is likely that the relative person would be willing and able to serve as the child's or juvenile's guardian for an extended period of time or until the child or juvenile attains the age of 18 years.

✓ Section 48.977(2)(f) is amended to read:

✓ (4)(a)6. A county department under s. 46.22 or 46.23 or, if the child or juvenile has been placed pursuant to an order under ch. 938 or the child's or juvenile's placement with the guardian is recommended or requested under ch. 938, a county department under s. 46.215, 46.22, or 46.23.

✓ Section 48.977(4)(b)3. is amended to read:

(4)(b)3. The date the child was adjudged in need of protection or services under s. 48.13(1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or the juvenile was adjudged in need of protection or services under s. 938.13(4) and the dates that the child or juvenile has been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child or juvenile has been so adjudged, but not so placed, the date of the report under s. 48.33(1) or 938.33(1) or the request for a change in placement under s. 48.357(1) or (2m) or 938.357(1) or (2m) in which placement of the child or juvenile in the home of the person is recommended or requested.

✓ Section 48.977(4)(c)1.g. is amended to read:

(4)(c)1.g. The relative person with whom the child or juvenile is placed or in whose home placement of the child is recommended or requested as described in sub. (2)(a), if the relative is nominated as the guardian of the child or juvenile in the petition.

✓ Section 48.977(4)(e) is amended to read:

(4)(e) *Court report.* The For a child or juvenile who has been placed, or continued in a placement, outside of his or her home for 6 months or longer, the court shall order the person or agency primarily responsible for providing services to the child or juvenile under a court order to file with the court a report containing the written summary under s. 48.38(5)(e) and as much information relating to the appointment of a guardian as is reasonably ascertainable. For the child or juvenile who has been placed, or continued in a placement, outside of his or her home for less than 6 months, the court shall order the person or agency primarily responsible for providing services to the child or juvenile under a court order to file with the court the report submitted under s. 48.33(1) or 938.33(1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared, and as much information relating to the appointment of a guardian as is reasonably ascertainable. The agency shall file the report at least 48 hours before the date of the dispositional hearing under par. (fm).

support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the department or its designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49 or that a kinship care relative or long-term kinship care relative of the minor child is receiving kinship care payments or long-term kinship care payments for the minor child, shall forward all support assigned under s. 46.261, 48.57(3m)(b)2. or (3n)(b)2., 49.19(4)(h)1., or 49.45(19) to the assignee under s. 46.261, 48.57(3m)(b)2. or (3n)(b)2., 49.19(4)(h)1., or 49.45(19).

✓ Section 767.29(4) is amended to read:

(4) If an order or judgment providing for the support of one or more children not receiving aid under s. 46.261, 48.57(3m) or (3n), or 49.19 includes support for a minor who is the beneficiary of aid under s. 46.261, 48.57(3m) or (3n), or 49.19, any support payment made under the order or judgment is assigned to the state under s. 46.261, 48.57(3m)(b)2. or (3n)(b)2., or 49.19(4)(h)1.b. in the amount that is the proportionate share of the minor receiving aid under s. 46.261, 48.57(3m) or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

Section 938.33(4)(intro.) is amended to read:

✓ (4)(intro.) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement in a foster home, treatment foster home, or nonsecured residential care center for children or youth or in the home of the juvenile's guardian under s. 48.977(2) shall be in writing, except that the report may be presented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record. The report shall include all of the following:

Section 938.345(4) is created to read:

(4) If the court finds that a juvenile is in need of protection or services under s. 938.13(4), the court, instead of or in addition to any other disposition imposed under sub. (1), may place the juvenile in the home of the juvenile's guardian under s. 48.977(2).

Soon

-3005/1

LRB-01117

GMM:Am&J:pa

WJ:

DOA.....Fossum - Appointment of relative as guardian of child

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

LPS: Please proof amended stats. w/ folio.

the appointment of a guardian for certain children in need of protection or services, the payment of subsidized guardianship payments to a guardian of a child who meets certain requirements, and making an appropriation

Gen Cat

1 AN ACT relating to: the budget

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed outside of his or her home pursuant to an order of the juvenile court for one year or longer. This bill permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The bill also eliminates that one-year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the child. This bill permits a person who is appointed as the guardian for a child in need of protection or services, who was the licensed foster parent or treatment foster parent of the child before that appointment, and who is a resident of Milwaukee County to receive monthly subsidized guardianship

The Department of Health and Family Services (2)

2002-03

payments in an amount established by DHFS based on the average amount of general purpose revenues expended per child in foster care in Milwaukee County in state fiscal year 2000-01 if the child is 12 years of age or over and has been placed outside of his or her home for 15 of the most recent 22 months, the parental rights of the child's parents have been terminated, or the juvenile court has found that reunification of the child with the child's parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child, or if the child does not meet any of those conditions, but DHFS has determined that providing subsidized guardianship payments to the guardian is in the best interests of the child and the juvenile court has confirmed that determination. The bill also requires DHFS to request from the secretary of the federal Department of Health and Human Services a waiver of the requirements under Title IV-E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and, if the waiver is approved, to provide monthly subsidized guardianship payments to the guardian according to the terms of the waiver.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (7) (b) of the statutes is amended to read:

2 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
3 services under s. 46.40, to fund services provided by resource centers under s. 46.283
4 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement
5 to counties having a population of less than 500,000 for the cost of court attached
6 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for
7 foster care and treatment foster care, and subsidized guardianship care under s. ss.
8 46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be
9 made from this appropriation. Refunds received relating to payments made under
10 s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under
11 this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001

1 (3) (a) and 20.002 (1), the department of health and family services may transfer
 2 funds between fiscal years under this paragraph. The department shall deposit into
 3 this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
 4 year audit adjustments including those resulting from audits of services under s.
 5 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
 6 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
 7 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
 8 year shall lapse to the general fund on the succeeding January 1 unless carried
 9 forward to the next calendar year by the joint committee on finance.

10 ~~SECTION 2. 20.435 (7) (kw) of the statutes is amended to read:~~

11 ~~20.435 (7) (kw) *Interagency community aids*. The amounts in the schedule for~~
 12 ~~human services under s. 46.40, for reimbursement to counties having a population~~
 13 ~~of less than 500,000 for the cost of court attached intake services under s. 48.06 (4),~~
 14 ~~for shelter care under ss. 48.58 and 938.22, for foster care and, treatment foster care,~~
 15 ~~and subsidized guardianship care under s. ss. 46.261 and 49.19 (10), and for mental~~
 16 ~~health services under s. 51.423 (1). All moneys transferred from the appropriation~~
 17 ~~account under s. 20.445 (3) (md) for those purposes shall be credited to this~~
 18 ~~appropriation account.~~

19 SECTION 3. 46.10 (14) (a) of the statutes is amended to read:

20 46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person
 21 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons
 22 under 18 years of age at community mental health centers, a county mental health
 23 complex under s. 51.08, the centers for the developmentally disabled, Mendota
 24 mental health institute and Winnebago mental health institute or care and
 25 maintenance of persons under 18 years of age in residential, nonmedical facilities

the (plain)

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 24
 25
 Plain

subsidized guardianship homes, residential care
centers for children and youth,

such as group homes, foster homes, treatment foster homes, ~~subsidized guardianship homes, child caring institutions,~~ ^{plus strike plain comma} and juvenile correctional institutions

is determined in accordance with the cost-based fee established under s. 46.03 (18).

The department shall bill the liable person up to any amount of liability not paid by

an insurer under s. 632.89 (2) or (2m) or by other 3rd party benefits, subject to rules

which include formulas governing ability to pay promulgated by the department

under s. 46.03 (18). Any liability of the patient not payable by any other person

terminates when the patient reaches age 18, unless the liable person has prevented

payment by any act or omission.

or residential care center for children and youth (plain) (structure)

SECTION 4. 46.10 (14) (b) of the statutes is amended to read:

46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability

of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the

parent's minor child who has been placed by a court order under s. 48.355 or 48.357

in a residential, nonmedical facility such as a group home, foster home, treatment

foster home, ^{plain} subsidized guardianship home, or ~~child caring institution,~~ shall be

determined by the court by using the percentage standard established by the

department of workforce development under s. 49.22 (9) and by applying the

percentage standard in the manner established by the department under s. 46.247.

SECTION 5. 46.261 (1) (a) of the statutes is amended to read:

46.261 (1) (a) The child is living in a foster home or treatment foster home

licensed under s. 48.62 if a license is required under that section, in a foster home

or treatment foster home located within the boundaries of a federally recognized

American Indian reservation in this state and licensed by the tribal governing body

of the reservation, in a group home licensed under s. 48.625 ^(plain) in a subsidized

guardianship home under s. 48.62 (5), or in a ~~child caring institution~~ licensed under

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center (plain)

(plain)

1 s. 48.60, and has been placed in the foster home, treatment foster home, group home,
 2 subsidized guardianship home, or ~~institution~~ by a county department under s.
 3 46.215, 46.22, or 46.23, by the department, or by a federally recognized American
 4 Indian tribal governing body in this state under an agreement with a county
 5 department under s. 46.215, 46.22, or 46.23.

SECTION 6. 46.261 (2) (a) 1. of the statutes is amended to read:

7 46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
 8 home or treatment foster home having a license under s. 48.62, in a foster home or
 9 treatment foster home located within the boundaries of a federally recognized
 10 American Indian reservation in this state and licensed by the tribal governing body
 11 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
 12 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who
 13 cares for the dependent child, regardless of the cause or prospective period of
 14 dependency. The state shall reimburse counties pursuant to the procedure under s.
 15 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
 16 granted under this section except that if the child does not have legal settlement in
 17 the granting county, state reimbursement shall be at 100%. The county department
 18 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the
 19 legal settlement of the child. A child under one year of age shall be eligible for aid
 20 under this subsection irrespective of any other residence requirement for eligibility
 21 within this section.

residential care center for children and youth (plain)

SECTION 7. 46.261 (2) (a) 3. of the statutes is amended to read:

22 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
 23 the department, when the child is placed in a licensed foster home, treatment foster
 24 home, group home, or ~~child caring institution~~ or in a subsidized guardianship home
 25

(plan)

or residential care center for children and youth

(use twice)

1 by a licensed child welfare agency or by a federally recognized American Indian tribal
2 governing body in this state or by its designee, if the child is in the legal custody of
3 the county department under s. 46.215, 46.22, or 46.23 or the department under s.
4 48.48 (17) or if the child was removed from the home of a relative, as defined under
5 s. 48.02 (15), as a result of a judicial determination that continuance in the home of
6 the relative would be contrary to the child's welfare for any reason and the placement
7 is made pursuant to an agreement with the county department or the department.

8 SECTION 8. 46.261 (2) (a) 4. of the statutes is amended to read:

9 46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home
10 or ~~child caring institution~~ or a subsidized guardianship home when the child is in the
11 custody or guardianship of the state, when the child is a ward of an American Indian
12 tribal court in this state and the placement is made under an agreement between the
13 department and the tribal governing body, ^{plan} or when the child was part of the state's
14 direct service case load and was removed from the home of a relative, as defined
15 under s. 48.02 (15), as a result of a judicial determination that continuance in the
16 home of a relative would be contrary to the child's welfare for any reason and the child
17 is placed by the department.

18 SECTION 9. 46.261 (2) (b) of the statutes is amended to read:

19 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
20 granted for placement of a child in a foster home or treatment foster home licensed
21 by a federally recognized American Indian tribal governing body, for placement of a
22 child in a foster home, treatment foster home, ^(plan) group home, subsidized guardianship
23 home, or ~~child caring institution~~ by a tribal governing body or its designee, or for the
24 placement of a child who is a ward of a tribal court if the tribal governing body is

1 receiving or is eligible to receive funds from the federal government for that type of
2 placement ~~or for placement of a child in a group home licensed under s. 48.625.~~

3 SECTION 10. 46.495 (1) (d)^d of the statutes is amended to read:

4 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) ~~and~~
5 and (o), the department shall distribute the funding for social services, including
6 funding for foster care ~~or~~, treatment foster care, or subsidized guardianship care of
7 a child on whose behalf aid is received under s. 46.261, to county departments under
8 ss. 46.215, 46.22^{plan}, and 46.23 as provided under s. 46.40. County matching funds are
9 required for the distributions under s. 46.40 (2), (8)^{plan} and (9) (b). Each county's
10 required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89%
11 of the total of the county's distributions under s. 46.40 (2) and (8) for that year for
12 which matching funds are required plus the amount the county was required by s.
13 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its
14 distribution for 1987. Each county's required match for the distribution under s.
15 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40
16 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal
17 and state revenue sharing funds, ^(plan) or private donations to the county that meet the
18 requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the
19 total county match. If the county match is less than the amount required to generate
20 the full amount of state and federal funds distributed for this period, the decrease
21 in the amount of state and federal funds equals the difference between the required
22 and the actual amount of county matching funds.

23 SECTION 11. 46.51 (4) of the statutes is amended to read:

24 46.51 (4) A county may use the funds distributed under this section to fund
25 additional foster parents ~~and~~, treatment foster parents, and subsidized guardians

residential care center for children and youth
or in the home of a relative other than a
parent

to care for abused and neglected children and to fund additional staff positions to provide services related to child abuse and neglect and to unborn child abuse.

SECTION 12. 48.33 (4) (intro.) of the statutes is amended to read:

48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement of an adult expectant mother outside of her home shall be in writing. A report recommending placement of a child in a foster home, treatment foster home, group home or ^{plan} ~~child caring institution~~ or in the home of the child's guardian under s. 48.977 (2) shall be in writing and shall include all of the following:

SECTION 13. 48.345 (3) (c) of the statutes is amended to read:

48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62 or a group home licensed under s. 48.625, or in the home of the child's guardian under s. 48.977 (2).

SECTION 14. 48.425 (1) (g) of the statutes is amended to read:

48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4. determines that it is unlikely that the child will be adopted, or if adoption would not be in the best interests of the child, the report shall include a plan for placing the child in a permanent family setting. The plan shall include a recommendation as to the agency to be named guardian of the child or a recommendation that the person appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian of the child or that a guardian be appointed for the child under s. 48.977 (2).

SECTION 15. 48.427 (3m) (intro.) of the statutes is amended to read:

48.427 (3m) (intro.) If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has not been appointed under s. 48.977, the court shall either do one of the following:

SECTION 16. 48.427 (3m) (c) of the statutes is created to read:

1 48.427 (3m) (c) Appoint a guardian under s. 48.977[✓] and transfer guardianship
2 and custody of the child to the guardian.

3 SECTION 17. 48.427 (3p)[✓] of the statutes is amended to read:

4 48.427 (3p) If the rights of both parents or of the only living parent are
5 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the
6 court may enter one of the orders specified in sub. (3m) (a) or (b).[✓] If the court enters
7 an order under this subsection, the court shall terminate the guardianship under s.
8 48.977.

9 SECTION 18. 48.48 (17) (a) 3.[✓] of the statutes is amended to read:

10 48.48 (17) (a) 3. Provide appropriate protection and services for children and
11 the expectant mothers of unborn children in its care, including providing services for
12 those children and their families and for those expectant mothers in their own
13 homes, placing the children in licensed foster homes, treatment foster homes, or
14 group homes in this state or another state within a reasonable proximity to the
15 agency with legal custody, placing the children in the homes of the children's
16 guardians under s. 48.977 (2)[✓], or contracting for services for those children by
17 licensed child welfare agencies, except that the department may not purchase the
18 educational component of private day treatment programs unless the department,
19 the school board, as defined in s. 115.001 (7), and the state superintendent of public
20 instruction all determine that an appropriate public education program is not
21 available. Disputes between the department and the school district shall be resolved
22 by the state superintendent of public instruction.

23 SECTION 19. 48.48 (17) (c) 4.[✓] of the statutes is amended to read:

24 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,^(plan)
25 or ~~child caring institution~~ or in the home of a subsidized guardian under s. 48.62 (5)[✓].

residential care center for children and youth (plan)

1 **SECTION 20.** 48.57 (1) (c) of the statutes is amended to read:

2 48.57 (1) (c) To provide appropriate protection and services for children and the
3 expectant mothers of unborn children in its care, including providing services for
4 those children and their families and for those expectant mothers in their own
5 homes, placing those children in licensed foster homes, treatment foster homes, or
6 group homes in this state or another state within a reasonable proximity to the
7 agency with legal custody, placing those children in the homes of the children's
8 guardians under s. 48.977 (2), or contracting for services for those children by
9 licensed child welfare agencies, except that the county department may not purchase
10 the educational component of private day treatment programs unless the county
11 department, the school board, as defined in s. 115.001 (7), and the state
12 superintendent of public instruction all determine that an appropriate public
13 education program is not available. Disputes between the county department and
14 the school district shall be resolved by the state superintendent of public instruction.

15 **SECTION 21.** 48.57 (3m) (cm) of the statutes is amended to read:

16 48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am)
17 for providing care and maintenance for a child is not eligible to receive a payment
18 under sub. (3n) or s. 48.62 (4) or (5) for that child.

19 **SECTION 22.** 48.57 (3n) (am) 1. of the statutes is amended to read:

20 48.57 (3n) (am) 1. The long-term kinship care relative applies to the county
21 department or department for payments under this subsection and provides proof
22 that he or she has been appointed as the guardian of the child under s. 48.977 (2) and
23 states that he or she was not licensed as the child's foster parent or treatment foster
24 parent before the guardianship appointment.

25 **SECTION 23.** 48.57 (3n) (cm) of the statutes is amended to read:

↓
Insert
10-14
↓

1 48.57 (3n) (cm) A long-term kinship care relative who receives a payment
2 under par. (am) for providing care and maintenance for a child is not eligible to
3 receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

4 SECTION 24. 48.61 (3)[√] of the statutes is amended to read:

5 48.61 (3) To provide appropriate care and training for children in its legal or
6 physical custody and, if licensed to do so, to place children in licensed foster homes,
7 licensed treatment foster homes, and licensed group homes and in the homes of the
8 children's guardians under s. 48.977 (2).

9 SECTION 25. 48.615 (1) (b) of the statutes is amended to read:

10 48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to
11 a child welfare agency that places children in licensed foster homes, licensed
12 treatment foster homes, and licensed group homes and in the homes of the children's
13 guardians under s. 48.977 (2), the child welfare agency must pay to the department
14 a biennial fee of \$254.10. ^{Keep scored period} ~~(2) who was licensed as the child's foster parent or~~
15 ~~treatment foster parent before the guardianship appointment, and who is a resident~~
16 ~~of a county having a population of 500,000 or more.~~

17 SECTION 26. 48.62 (5)[√] of the statutes is created to read:

18 48.62 (5) (a) Subject to par. (b), monthly subsidized guardianship payments
19 shall be provided to a guardian of a child under s. 48.977 (2)[√] who was licensed as the
20 child's foster parent or treatment foster parent before the guardianship
21 appointment, and who is a resident of a county having a population of 500,000 or
22 more [↑] according to a rate established by the department based on the average amount
23 of general purpose revenues expended for foster care per child in foster care ~~in a~~
24 ~~county having a population of 500,000 or more in fiscal year 2000-01~~ if the child
25 meets any of the following conditions:

in that county

2002-03

(?) (1)

1 1. The child is 12 years of age or over and has been placed outside of his or her
2 home, as described in s. 48.365 (1),[✓] for 15 of the most recent 22 months, the parental
3 rights of both of the child's parents or of the child's only living parent have been
4 terminated, or the court has found under s. 48.977 (2) (f)[✓] that the agency primarily
5 responsible for providing services to the child under a court order has made
6 reasonable efforts to make it possible for the child to return to his or her home, while
7 assuring that the child's health and safety are the paramount concerns, but that
8 reunification of the child with the child's parent or parents is unlikely or contrary to
9 the best interests of the child and that further reunification efforts are unlikely to
10 be made or are contrary to the best interests of the child, or that any of the
11 circumstances specified in s. 48.355 (2d) (b) 1. ~~2, 3, or 4~~^g apply. 5 50

12 2. The child does not meet the conditions specified in subd. 1.,[✓] but the
13 department has determined, and the court has confirmed under s. 48.977 (3r)[✓], that
14 providing monthly subsidized guardianship payments to the guardian is in the best
15 interests of the child.

16 (b) The department shall request from the secretary of the federal department
17 of health and human services a waiver of the requirements under 42 USC 670 to 679a
18 that would authorize the state to receive federal foster care and adoption assistance
19 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child
20 who is in the care of a guardian who was licensed as the child's foster parent or
21 treatment foster parent before the guardianship appointment. If the waiver is
22 approved, the rate established under par. (a) shall not apply, and monthly subsidized
23 guardianship payments under par. (a) shall be provided to the guardian according
24 to the terms of the waiver.

25 **SECTION 27.** 48.977 (title)[✓] of the statutes is amended to read:

1 **48.977** (title) **Appointment of relatives as guardians for certain**
2 **children in need of protection or services.**

3 **SECTION 28.** 48.977 (1)[↓] of the statutes is repealed.

4 **SECTION 29.** 48.977 (2) (intro.)[↓] of the statutes is amended to read:

5 **48.977 (2) TYPE OF GUARDIANSHIP.** (intro.) This section may be used for the
6 appointment of a ~~relative of a child as a~~ guardian of the person for ~~the~~ a child if the
7 court finds all of the following:

8 **SECTION 30.** 48.977 (2) (a)[↓] of the statutes is amended to read:

9 **48.977 (2) (a)** That the child has been adjudged to be in need of protection or
10 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
11 938.13 (4) and been placed, or continued in a placement, outside of his or her home
12 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
13 938.345, 938.357, 938.363, or 938.365 ~~for a cumulative total period of one year or~~
14 ~~longer~~ or that the child has been so adjudged and placement of the child in the home
15 of a guardian under this section has been recommended under s. 48.33 (1) or 938.33
16 (1) or requested^{or requested} under s. 48.357 (1) or (2m) or 938.357 (1) or (2m).

17 **SECTION 31.** 48.977 (2) (b)[↓] of the statutes is amended to read:

18 **48.977 (2) (b)** That the person nominated as the guardian of the child is a
19 ~~relative of the child person~~ with whom the child has been placed or in whose home
20 placement of the child is recommended or requested under par. (a) and that it is likely
21 that the child will continue to be placed with that ~~relative~~ person for an extended
22 period of time or until the child attains the age of 18 years.

23 **SECTION 32.** 48.977 (2) (c)[↓] of the statutes is amended to read:

1 48.977 (2) (c) That, if appointed, it is likely that the relative person would be
2 willing and able to serve as the child's guardian for an extended period of time or until
3 the child attains the age of 18 years.

4 ~~SECTION 33. 48.977 (2) (f) of the statutes is amended to read:~~

5 ~~48.977 (2) (f) That the agency primarily responsible for providing services to~~
6 ~~the child under a court order has made reasonable efforts to make it possible for the~~
7 ~~child to return to his or her home, while assuring that the child's health and safety~~
8 ~~are the paramount concerns, but that reunification of the child with the child's~~
9 ~~parent or parents is unlikely or contrary to the best interests of the child and that~~
10 ~~further reunification efforts are unlikely to be made or are contrary to the best~~
11 ~~interests of the child or that the agency primarily responsible for providing services~~
12 ~~to the child under a court order has made reasonable efforts to prevent the removal~~
13 ~~of the child from his or her home, while assuring that the child's health and safety~~
14 ~~are the paramount concerns, but that continued placement of the child in the home~~
15 ~~would be contrary to the health, safety, and welfare of the child, except that the court~~
16 ~~need not find that the agency has made those reasonable efforts with respect to a~~
17 ~~parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3.,~~
18 ~~or 4. apply to that parent.~~

19 **SECTION 34.** 48.977 (3r) of the statutes is created to read:

20 48.977 (3r) SUBSIDIZED GUARDIANSHIP. If the department has determined that
21 providing monthly subsidized guardianship payments to the guardian of a child who
22 does not meet the conditions specified under s. 48.62 (5) (a) 1. is in the best interests
23 of the child, the petitioner under sub. (4) (a) shall include in the petition under sub.
24 (4) (b) a statement of that determination and a request for the court to include in the
25 court's findings under sub. (4) (d) a finding confirming that determination. If the

Insert
14-18

1 court confirms that determination and appoints a guardian for the child under sub.
2 (2) and if the guardian was licensed as the child's foster parent or treatment foster
3 parent before the guardianship appointment and is a resident of a county having a
4 population of 500,000 or more, the department shall provide monthly subsidized
5 guardianship payments to the guardian under s. 48.62 (5).[↓]

6 SECTION 35. 48.977 (4) (a) 4.[↓] of the statutes is amended to read:

7 48.977 (4) (a) 4. The relative person with whom the child is placed or in whose
8 home placement of the child is recommended or requested as described in sub. (2) (a).[↓]
9 if the relative person is nominated as the guardian of the child in the petition.

10 SECTION 36. 48.977 (4) (a) 6.[↓] of the statutes is amended to read:

11 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
12 been placed pursuant to an order under ch. 938 or the child's placement with the
13 guardian is recommended or requested under ch. 938, a county department under
14 s. 46.215, 46.22, or 46.23.

15 SECTION 37. 48.977 (4) (b) 3.[↓] of the statutes is amended to read:

16 48.977 (4) (b) 3. The date the child was adjudged in need of protection or
17 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or
18 938.13 (4) and the dates that the child has been placed, or continued in a placement,
19 outside of his or her home pursuant to one or more court orders under s. 48.345,
20 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been
21 so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)
22 or the request for a change in placement under s. 48.357 (1) or (2m) or 938.357 (1)
23 or (2m) in which placement of the child in the home of the person is recommended
24 or requested.

25 SECTION 38. 48.977 (4) (c) 1. g.[↓] of the statutes is amended to read:

Plain space

1 48.977 (4) (c) 1. g. The relative person with whom the child is placed or in whose
 2 home placement of the child is recommended or requested as described in sub. (2) (a).
 3 if the ~~relative~~ person is nominated as the guardian of the child in the petition.

4 SECTION 39. 48.977 (4) (e) of the statutes is amended to read:

5 48.977 (4) (e) *Court report.* ~~The~~ For a child who has been placed, or continued
 6 in a placement, outside of his or her home for 6 months or longer, the court shall order
 7 the person or agency primarily responsible for providing services to the child under
 8 a court order to file with the court a report containing the written summary under
 9 s. 48.38 (5) (e) and as much information relating to the appointment of a guardian
 10 as is reasonably ascertainable. For a child who has been placed, or continued in a
 11 placement, outside of his or her home for less than 6 months, the court shall order
 12 the person or agency primarily responsible for providing services to the child under
 13 a court order to file with the court the report submitted under s. 48.33 (1) or 938.33
 14 (1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared,
 15 and as much information relating to the appointment of a guardian as is reasonably
 16 ascertainable. The agency shall file the report at least 48 hours before the date of
 17 the dispositional hearing under par. (fm).

18 SECTION 40. 48.977 (4) (g) 1. of the statutes is amended to read:

19 48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of
20 the child.

21 SECTION 41. 48.977 (4) (g) 2. of the statutes is amended to read:

22 48.977 (4) (g) 2. The willingness and ability of the relative person to serve as
 23 the child's guardian for an extended period of time or until the child attains the age
 24 of 18 years.

25 SECTION 42. 49.155 (1m) (bm) of the statutes is amended to read:

Insert
16-24

(p/41n)

1 49.155 (1m) (bm) If the individual is providing care for a child under a court
 2 order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or
 3 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child
 4 care is needed for that child, the individual meets the requirement under s. 49.145
 5 (2) (c).

****NOTE: This is reconciled s. 49.155 (1m). This SECTION has been affected by
 drafts with the following LRB numbers: LRB-0441/5 and LRB-1302/7

6 SECTION 43. 49.46 (1) (a) 5. of the statutes is amended to read:

7 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
 8 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
 9 placement under ch. 48 or 938, as determined by the department.

10 SECTION 44. 767.078 (1) (a) 2. of the statutes is amended to read:

11 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.
 12 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

13 SECTION 45. 767.29 (1m) (c) of the statutes is amended to read:

14 767.29 (1m) (c) The party entitled to the support or maintenance money or a
 15 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
 16 ~~children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an
 17 assignment to the state under s. 46.261 or 49.19 (4) (h) 1. b. of the party's right to the
 18 support or maintenance money.

19 SECTION 46. 767.29 (2) of the statutes is amended to read:

20 767.29 (2) If any party entitled to maintenance payments or support money,
 21 or both, is receiving public assistance under ch. 49, the party may assign the party's
 22 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such
 23 assistance. Such assignment shall be approved by order of the court granting the

1 maintenance payments or support money, and may be terminated in like manner;
2 except that it shall not be terminated in cases where there is any delinquency in the
3 amount of maintenance payments and support money previously ordered or
4 adjudged to be paid to the assignee without the written consent of the assignee or
5 upon notice to the assignee and hearing. When an assignment of maintenance
6 payments or support money, or both, has been approved by the order, the assignee
7 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
8 of securing payment of unpaid maintenance payments or support money adjudged
9 or ordered to be paid, by participating in proceedings to secure the payment thereof.
10 Notwithstanding assignment under this subsection, and without further order of the
11 court, the department or its designee, upon receiving notice that a party or a minor
12 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
13 or that a kinship care relative or long-term kinship care relative of the minor child
14 is receiving kinship care payments or long-term kinship care payments for the minor
15 child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)
16 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or
17 (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

18 **SECTION 47.** 767.29 (4) of the statutes is amended to read:

19 767.29 (4) If an order or judgment providing for the support of one or more
20 children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes
21 support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n),
22 or 49.19, any support payment made under the order or judgment is assigned to the
23 state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount
24 that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m)
25 or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

residential care center for children and youth

~~in the home of a relative other than a parent~~ ^{sure} _{score}

strike

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SECTION 48. 938.33 (4) (intro.) of the statutes is amended to read:

938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement in a foster home, treatment foster home, group home, or nonsecured ^(plain) ~~child~~ ~~caring institution~~ or in the home of the juvenile's guardian under s. 48.977 (2) shall be in writing, except that the report may be presented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record. The report shall include all of the following:

SECTION 49. 938.345 (4) of the statutes is created to read:

938.345 (4) If the court finds that a juvenile is in need of protection or services under s. 938.13 (4), the court, instead of or in addition to any other disposition imposed under sub. (1), may place the juvenile in the home of the juvenile's guardian under s. 48.977 (2).

SECTION 50. 938.57 (1) (c) of the statutes is amended to read:

938.57 (1) (c) Provide appropriate protection and services for juveniles in its care, including providing services for juveniles and their families in their own homes, placing the juveniles in licensed foster homes, licensed treatment foster homes, or licensed group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing the juveniles in the homes of the juveniles' guardians under s. 48.977 (2), or contracting for services for them by licensed child welfare agencies or replacing them in secured correctional facilities, secured child caring institutions, or secured group homes in accordance with rules promulgated under ch. 227, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not

(plain)

residential care center for children and youth

1 available. Disputes between the county department and the school district shall be
2 resolved by the state superintendent of public instruction.

3 SECTION 51. 938.57 (3) (a) 4. of the statutes is amended to read:

4 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
5 or ~~child care institution~~ or in the home of a subsidized guardian under s. 48.62 (5).

6 SECTION 9129. Nonstatutory provisions, health and family services

7 (1) RELATIVE GUARDIANSHIPS. Notwithstanding section 48.977 (2) (a), ~~1997~~
8 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may
9 be filed for the appointment of a relative as the guardian of the person of a child who
10 has been placed, or continued in a placement, outside of his or her home for less than
11 one year on the effective date of this subsection.

12 (END)

(plain)

2001

~~If the juvenile is a resident of a
county that is included in a waiver
described in s. 48.62(5)(b)~~

Insert 10-14

Section #. 48.57 (3) (a) 4. of the statutes is amended to read:

48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home, or residential care center for children and youth.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

or, if the child is a resident of a county that is included in a waiver described in s. 48.62 (5)(b), is living in the home of a subsidized guardian under s. 48.62 (5)

(end of insert)

Section #. 48.977 (2) (f) of the statutes is amended to read:

48.977 (2) (f) That the agency primarily responsible for providing services to the child under a court order has made reasonable efforts to make it possible for the child to return to his or her home, while assuring that the child's health and safety are the paramount concerns, but that reunification of the child with the child's parent or parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child, except that the court is not required to find that the agency has made those reasonable efforts with respect to a parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the findings specified in this paragraph on a case-by-case basis based on circumstances specific to the child and shall document or reference the specific information on which those findings are based in the guardianship order. A guardianship order that merely references this paragraph without documenting or referencing that specific information in the order or an amended guardianship order that retroactively corrects an earlier guardianship order that does not comply with this paragraph is not sufficient to comply with this paragraph.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109.

or that the agency primarily responsible for providing services to the child under a court order has made reasonable efforts to prevent the removal of the child from his or her home; while assuring that the child's health and safety; but that continued placement of the child in the home would be contrary to the welfare of the child

(end of insert)

Letter 16-24

Section #. 48.977 (4) (h) 1. of the statutes is amended to read:

person

48.977 (4) (h) 1. A disposition dismissing the petition if the court determines that appointment of the ~~relative~~ as the child's guardian is not in the best interests of the child.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109.



Insert 16-24

Section #. 48.977 (4) (h) 2. of the statutes is amended to read:

person

48.977 (4) (h) 2. A disposition ordering that the ~~relative~~ with whom the child has been placed be appointed as the child's guardian under sub. (5) (a) or limited guardian under sub. (5) (b), if the court determines that such an appointment is in the best interests of the child.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109.

or in whose home placement of the child is
recommended or requested as described in
sub(2)(a)

(end insert)

Malaise, Gordon

From: Mitchell, Mark
Sent: Monday, February 16, 2004 2:21 PM
To: Malaise, Gordon
Subject: Subsidized Guardianship Legislative Proposal



Subsidized
Guardianship Legislat..

Hi, Gordon. Thanks for agreeing to meet with us. If you look at the last two pages of the attached document, I think you'll see what modifications we're suggesting to the draft.

Look forward to seeing you on Wednesday.

--Mark

January 2004

Subsidized Guardianship Legislative Proposal

Background: The federal Adoption and Safe Families Act (ASFA) defined legal guardianship for children in out-of-home care as a judicially created relationship between a child and caretaker that is permanent and self-sustaining. Wisconsin statutes allow guardians, appointed under s. 48.977, Wis. Stats., to be designated as permanent foster parents, conferring legal decision making authority over a child to the legal guardian. However, the current guardianship provision does not effectively provide a permanency outcome for children and foster care cases with 48.977 guardianships can remain open for payment purposes. Creating a subsidized guardianship program will improve permanency outcomes for children and reduce foster care caseloads.

Purpose of Legislation: State statutory changes are needed to authorize the use of state funds to operate a subsidized guardianship program. Changes are also needed to the guardianship provisions in the Chapter 48 Children's Code. Other changes are needed to clarify how the new guardianship payments will be treated for other program purposes.

The subsidized guardianship program is part of a broader guardianship permanency initiative. Other aspects of the guardianship initiative can be done under existing state law and program policies.

Scope of Legislation: The subsidized guardianship program requires a federal Title IV-E waiver to claim federal IV-E reimbursement for the guardianship payments. The subsidized guardianship program will be limited to counties included in the federal waiver, with the program initially limited to Milwaukee County. The Chapter 48 guardianship changes will be applicable statewide.

Summary of Statutory Changes:

Chapter 20.435(3)(cx), (gx) and (mx) - By making changes under s. 48.48(17), funds in Bureau of Milwaukee Child Welfare appropriations currently used to make foster care payments can also be used to make subsidized guardianship payments.

Chapter 20.435(7)(b) - Modify the Community Aids appropriations to allow state community aids funds to be used by a county for subsidized guardianship payments provided that the county is included in the federal IV-E waiver.

Chapter 46 - Modify ss. 46.10, 46.251, 46.495 and 46.51 as necessary to include subsidized guardianship homes in provisions applicable to foster homes and clarify the responsibilities of child welfare agencies relating to the subsidized guardianship program.

Chapter 48 - Modify ss. 48.33 and 48.345 as necessary to include the homes of guardians.

3

Folk into
48.415(1)(a)
2-b
Ab. 356(1)

* Chapter 48 – Modify s. 48.415 to create a new ground for termination of parental rights for children placed with a guardian under s. 48.977(2) and the parent has not had contact with the child for more than six months following the guardianship. This new ground will facilitate guardians to subsequently seek adoption of the child.

Chapter 48 - Modify ss. 48.425 and 48.427 as necessary to clarify guardianship as a disposition for children.

Chapter 48 - Modify s. 48.48(17) to clarify the authority of the Bureau of Milwaukee Child Welfare to place children with guardians and make guardianship payments.

Chapter 48 – Modify ss. 48.57(3) as necessary to include subsidized guardianship homes in provisions applicable to foster homes

Chapter 48 – Modify s. 48.57(3m)(cm) and (3n)(cm) to specify that persons cannot receive a kinship care and guardianship payment for the same child.

Chapter 48 – Modify s. 48.61(3) to clarify the authority of child welfare agencies to place children in guardianship homes.

already covered
48.48(17)
48.57(3)(cm)

* Chapter 48 – Modify s. 48.619 relating to continuation of foster care payments past age 18 for children in school to apply to guardianship payments.

Chapter 48 - Create new provisions under s. 46.62(5) specifying the eligibility requirements for subsidized guardianship and the guardianship payment amount.

The Department of Health and Family Services (DHFS) should be directed to seek a federal Title IV-E waiver to operate a subsidized guardianship program.

The eligibility requirements should include:

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○
○
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- The child has been in out-of-home care for one year, or if the child has been in care for less than one year, that guardianship is determined to be in the best interests of the child.
- The child is under the jurisdiction of the Bureau of Milwaukee Child Welfare or a county that has been approved by DHFS to participate in the federal guardianship waiver.
- Reasonable efforts have been made toward reunification and further efforts at reunification are unlikely to be successful or that aggravated circumstances under s. 48.355(2d) apply.
- The caretaker of the child is licensed as a foster parent or treatment foster parent and the child has been placed with the caretaker for six months, or if the child has been placed for less than six months, the caretaker is determined to be appropriate as a guardian.
- The caretaker has completed a guardianship agreement with the child welfare agency.

or reasonable efforts not required

The guardianship payment for the child should be the same amount as the foster care payment for the child under s. 48.62(4) prior to the guardianship. Once established, the guardianship payment would remain the same as the child ages.

(Va) Include a provision under the new s. 48.62(5) to allow the child welfare agency to continue making the guardianship payment to another caretaker approved by the agency on an interim basis for up to 12 months in the event that the guardian dies or becomes incapacitated and cannot care for the child. The intent is to allow another approved caretaker to receive the payment and avoid having to take the child back into out-of-home care.

Chapter 48 - Modify s. 48.977(2) as necessary to clarify the use of guardianship as a permanency outcome for children in out-of-home care.

Modify current provisions limiting 48.977 guardianships to relatives to allow unrelated persons to be appointed guardians under 48.977 if in the child's best interest.

Create a provision under s. 48.977 to specify that subsidized guardianship payments can be approved as part of the guardianship order.

Chapter 49 - Modify s. 49.155 to specify that guardians may receive child care subsidies:

Specify that children in guardianship homes qualify for child care subsidies under s. 49.155(1m)(a)1m.b and that guardians meet the child care income limits under s. 49.155(1m)(c)1g.

Specify that guardians, foster parents and court-ordered kinship care providers are not subject to child care program co-payments. The co-payment exception for foster parents and court-ordered kinship providers is currently under Department of Workforce Development administrative rule. The co-payment exemption could be added to s. 49.155(1m)(c)1g for foster parents and guardians and to s. 49.155(1m)(c)1h for court-ordered kinship care providers.

Chapter 49 - Modify s 49.46(1)(a)5 to specify that children in subsidized guardianship are eligible for Medical Assistance the same as foster care.

Chapter 767 - Modify ss. 767.078 and 767.29 as necessary to clarify that parents of children in subsidized guardianship remain responsible for child support payments, the same as foster care.

Chapter 938 - Modify ss. 938.33, 938.345 and 938.357 as necessary to clarify the placement of juveniles in the home of a guardian.

Malaise, Gordon

From: Mitchell, Mark
Sent: Wednesday, February 18, 2004 10:03 AM
To: Malaise, Gordon
Subject: Fwd: guardianship legislation



Modifications to LRB
3005.doc

Gordon, revised list of changes.

--Mark

-----Original Message-----

Date: 02/18/2004 09:45 am -0600 (Wednesday)
From: John Tuohy
To: Berlin, Barbara; Mitchell, Mark
CC: Durkin, Therese
Subject: guardianship legislation

Revised list of changes needed to the LRB draft. I added what is needed for the eligibility section.

Modifications to LRB 3005/1 for Subsidized Guardianship

AM 48.356(1)
working 48.977

Page 8, line 22. Modify s. 48.415 to create a new ground for termination of parental rights for children placed with a guardian under s. 48.977(2) and the parent has not had contact with the child for more than six months following the guardianship.

OK. Page 11, Section 20, lines 2-3. Delete the words or "if a child is a resident of a county that is included in a waiver described in s. 48.62(5)(b)," The restriction about a child being a resident of a county is not necessary, particularly since counties participating in the waiver may place children who are not residents of the county.

Page 11, Section 22, lines 9-14. Delete the change to s. 48.57(3n)(am)1. It is not necessary to modify this provision for long-term kinship care since the eligibility for payments is addressed under s. 48.57(3n)(cm). If a relative was previously licensed as a foster parent for child but ceased to be licensed prior to seeking guardianship, that should not preclude the relative from receiving long-term kinship care,

already covered in 48.59(3) (c)4, 48.48 (1)(c)4, 5.

NO. Page 12, line 6. Insert a new section to modify s. 48.619 relating to continuation of foster care payments past age 18 for children in school to apply to guardianship payments, the same as foster care payments.

Page 12, Section 26, line 6 – Page 13, line 13. The eligibility and payment criteria under the new s. 48.62(5) must be revised to be consistent with the federal waiver proposal:

There are 5 basic elements that should included in the eligibility requirements for the program:

10 to 13 on 48.62(5)

DHFS should seek a federal waiver to operation the program. The language on page 13, lines 5 - 10 is sufficient for this purpose. The waiver will initially be limited to Milwaukee with expansion statewide at a later date. Language should be added so that DHFS can specify what counties the program is operational in under the terms of the federal waiver.

(county doesn't unilaterally, DHFS must approve county)

If a county is included in the waiver program, then the county can make subsidized guardianship payments for children who meet the program eligibility requirements to persons who meet the program eligibility requirements. The references to payments should allow BMCW to make payments from BMCW funds and other counties to make payments from Community Aids program funds.

The child eligibility requirements should include that the child be placed in out-of-home care with a licensed foster parent under the jurisdiction of the child welfare agency in a participating county. There should be no age limit for the child nor a requirement that the child be a resident of a particular county. Reasonable efforts at reunification must have been made and the language on

one year? best int?

page 12 lines 17-24 is sufficient for this purpose. Guardianship under s. 48.977 must also be determined to be in the child's best interest.

• The guardian eligibility requirements should include that the person be approved as a guardian under s.48.977, the child welfare agency has a guardianship agreement with the person, and that the child was placed with the person as a licensed foster parent/treatment foster parent prior to guardianship being awarded.

48.62(4)
48.6
Sub. (4) The guardianship payment should be equal to the foster care payment for the child at the time that guardianship is awarded. The language relating to DHFS determining a rate based on the GPR share of the foster care payment should be dropped. It should be clarified that a person cannot receive a guardianship payment and a foster care payment for the same child.

rate paid gov't
incl. supp.
exceptional
doesn't change

• In the event the guardian dies or becomes incapacitated, participating counties should be allowed to continue the guardianship payment to an interim caretaker for up to 12 months. This will avoid the need to take the child back into foster care to continue payment until a new guardian or other permanent placement can be made. The interim caretaker must be approved by the child welfare agency to receive payment for the child..

YES
No longer guardian for whatever reasons
- removal from case
- resignation
- terminate request
48.977(1)
12-1

include subsection 6.
comment
demonstrate conditions
YES - must meet conditions

Page 15, Section 34, lines 13 – 23. On line 13, it should not be limited to the Department of Health and Family Services (DHFS) to determine that subsidized guardianship payments are appropriate as counties may participate in the subsidized guardianship program. Similarly on line 22, the authority to provide subsidized guardianship payments should apply to counties as well. On line 20, the requirement that the guardian previously be licensed as a foster parent should be covered under the subsidized guardianship eligibility requirements under the new s. 48.62(5). On line 21, there should not be a restriction about the child being a resident of Milwaukee County because the program may be operated in other counties.

7. Page 18, Section 44, lines 10-4 – In addition to the change to s. 49.155(1m)(bm) regarding eligibility of guardians for the child care subsidy, make the following modifications. The change to s. 49.55(1m)(bm) only specifies that guardians meet the citizenship requirement to receive a child care subsidy.

(1m)(a)(intro.)
too?

• Modify s. 49.155(1m)(a)1m.b to specify that children in guardianship homes qualify for child care.

exceptions
income requirements
or 1h?

• Modify s. 49.155(1m)(c)1g to specify that guardians meet child care program income limits and that foster parents and guardians are not subject to child care co-payments.

already covered

• Modify s. 49.155(1m)(c)1h to specify that court-ordered kinship care providers are not subject to child care co-payments.